

REMARKS

This amendment is responsive to the non-Final Office Action of April 15, 2009. Reconsideration and allowance of the claims 19-23 and 26-42 are requested.

The Office Action

Claims 19, 20, 23, and 30-35 stand rejected under 35 U.S.C. § 112, first and second paragraphs, but were indicated as containing allowable subject matter if the 35 U.S.C. § 112 rejections were satisfactorily resolved.

Claims 24 and 25 stand rejected under 35 U.S.C. § 103 over Wyman (US 7,106,891) in view of Betke (“Automatic 3D Registration of Lung Surfaces in Computed Tomography Scans”).

Claim 21 stands rejected under 35 U.S.C. § 103 over Wyman in view of Betke further in view of Betke (US 7,206,462).

Claims 26-29, 36, and 37 were indicated as containing allowable subject matter.

Claim 28 stands rejected under 35 U.S.C. § 112, second paragraph.

Claims 38-41 stand rejected under 35 U.S.C. § 112, first paragraph, but were indicated as containing allowable subject matter if the 35 U.S.C. § 112 rejection is satisfactorily resolved.

**The Claims Are Now
In Condition For Allowance**

Claim 22, which was indicated as containing allowable subject matter, has been placed in independent form. Accordingly, it is submitted that claim 22 is now in condition for allowance.

Claim 23 distinguishes patentably over the references of record for the reasons set forth in paragraph 26 of the Office Action. Because claim 23 has been amended to remove the subject matter which the Examiner asserted was not supported by the specification as filed, which amendment also cures the 35 U.S.C. § 112, second paragraph rejection, it is submitted that claim 23 now distinguishes patentably over the prior art and meets the requirements of 35 U.S.C. § 112, first and second

paragraph. An early allowance of claim 23 and claims 19, 20, 30-35, and 42 dependent therefrom is requested.

Claim 26, which was indicated as containing allowable subject matter, has been placed in independent form. Accordingly, it is submitted that claim 26 and claims 21, 27-29, 36, and 37 dependent therefrom distinguish patentably over the references of record.

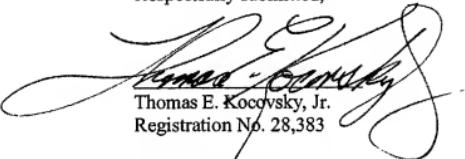
Claim 38 distinguishes patentably over the references of record for the reasons set forth in paragraph 26 of the Office Action. Claim 38 has further been amended to delete the subject matter which the Examiner asserted was not supported by the specification as filed. It is submitted that this amendment cures the 35 U.S.C. § 112, first paragraph issues, while retaining a claim which is still of a scope which distinguishes patentably over the references of record for the reasons set forth in paragraph 26. Accordingly, it is submitted that claim 38 and claims 39-41 dependent therefrom distinguish patentably over the references of record and meet the requirements of 35 U.S.C. § 112. An early allowance of claims 38-41 is requested.

CONCLUSION

For the reasons set forth above, it is submitted that claims 19-23 and 26-42 distinguish patentably and unobviously over the references of record. An early allowance of all claims is requested.

In the event the Examiner considers personal contact advantageous to the disposition of this case, the Examiner is requested to telephone Thomas Kocovsky at (216) 363-9000.

Respectfully submitted,



Thomas E. Kocovsky, Jr.
Registration No. 28,383

FAY SHARPE LLP
The Halle Building, 5th Floor
1228 Euclid Avenue
Cleveland, OH 44115-1843
Telephone: 216.363.9000 (main)
Telephone: 216.363.9122 (direct)
Facsimile: 216.363.9001
E-Mail: tkocovsky@faysharpe.com